

Bally's Park Place, Inc. and Sports Arena Employees Union, Local 137, affiliated with Laborers International Union of North America, AFL-CIO,¹ Petitioner. Case 4-RC-14449

March 18, 1981

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held in Atlantic City, New Jersey, on November 21, 1980, before Hearing Officer Bruce D. Bagley. Following the hearing, and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Acting Regional Director for Region 4 transferred this case to the Board for decision. Thereafter, briefs were filed by both the Employer and the Petitioner.²

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this proceeding, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The parties stipulated, and we agree, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act.

4. The Petitioner seeks a slot machine department unit of approximately 55 slot attendants and 22 slot mechanics³ at the Employer's gambling casino in Atlantic City, New Jersey. The Employer contends that the proposed unit is inappropriate because it is merely a "fragment of the entire casino" and that the only appropriate unit is one that includes all of the approximately 1,100 employees therein.

The Employer's 60,000-square-foot casino, which opened in December 1979, has 1,605 slot machines and 137 gaming tables of various types. Richard Gilman, who is the director of operations, has

overall supervision of the casino and sees to it that it is run properly.⁴

John O'Donnell, the slot department manager, is in direct charge of the 77 slot employees with whom he generally meets once a month. Serving under him are the shift manager, the assistant shift manager, the shift coordinator, and the chief mechanic. They and O'Donnell are responsible for hiring, terminating, and disciplining these employees, and evaluating them to determine whether they are entitled to merit increases. However, O'Donnell consults with the personnel department and must obtain the director's approval before increasing the wage scale for employees in his department. O'Donnell may propose the creation of a new position but authorization therefor is up to a management budget review committee.

The slot attendants are not required by the Employer or the State Casino Control Commission to take any training course as a prerequisite for that position. They are hired on the basis of their ability to communicate with slot machine customers and are stationed on the casino floor where they serve the customers by answering their questions, resolving their problems, and correcting minor malfunctions of the machines such as coin-jams. In addition, they initiate the paperwork needed for a jackpot or replenishing the coins in the machine.⁵ Slot attendants have a wage range of \$6 to \$7.75 per hour depending upon longevity and other factors.

The slot mechanics are required by the State Commission to take a training course at an approved school. They are stationed on the casino floor where they handle customer complaints referred to them by slot attendants with regard to malfunctioning slot machines. They repair and maintain the machines and also perform the task of refilling "the hopper when it runs dry." Their hourly wage rate ranges from \$8.40 to \$10.25.⁶

Mack Pink, the casino manager, is in direct charge of the gaming tables which are located on the casino floor and are staffed by 800 or 900 dealers who are under his supervision. They are required by the State Commission to take a 10-week training course at an approved school as a prereq-

⁴ Reporting to Gilman is Casino Administrator Dean Macomber whose duties are not described in the record.

⁵ Also located at various points on the casino floor are booth cashiers and change persons who dispense coins to customers and occasionally alert slot attendants as to coin-jams. In the event the slot manager wishes to have change persons moved to a busy area, he requests their accounting supervisor to take that action.

⁶ Another type of mechanic known as the slot arcade manager is separately located in an area on the fourth floor where he maintains electromagnetic devices and the coin mechanisms of game machines. The parties stipulated that this individual, who reports daily to the slot department manager, has no supervisory functions and should be included in a slot department unit if it is found to be appropriate.

¹ The name of the Petitioner appears as amended at the hearing.

² The Employer submitted a number of corrections of the transcript of the hearing which we hereby adopt in the absence of any objections from the Petitioner.

³ The employees in these classifications are also respectively known as slot floor persons and slot machine mechanics.

uisite for serving as dealers.⁷ Their compensation including tips ranges from about \$8 to \$11 per hour. The dealers have established a committee which meets regularly with the casino manager, the assistant casino manager, or the director of personnel to discuss their problems.

During the period from the opening of the casino in December 1979 to November 21, 1980, the date of the hearing in this proceeding, there were the following permanent transfers: 3 slot attendants, after taking the requisite course, became dealers, and a total of 8 to 10 pit clerks, cashiers, and change clerks became slot attendants. However, there has been no temporary substitution, interchange, or movement from one position to another.

As indicated above, the slot department employees and the dealers are separately supervised in the performance of their regular tasks. Although the slot department and casino managers have no jurisdiction over employees outside their own department, they do on occasion apprise each other of infractions of nonsmoking and loitering rules by such employees and they attend meetings with casino executives to take up such promotional matters as attracting more customers.

All casino employees may present their grievances or complaints to a review board if their supervisor does not resolve them to their satisfaction. They participate in the same medical, dental, and optical benefits, are provided with life insurance coverage,⁸ enjoy the same holidays, are entitled to vacations, have a common payday, receive overtime pay, utilize the same parking facilities, and are given free meals in the cafeteria. However, the slot attendants, slot mechanics, dealers, and other groups of employees wear different uniforms and there are separate slot and dealer lounges for use during breaks.⁹

It is clear from the foregoing that the specially trained slot mechanics and the slot attendants have distinctive duties, skills, and interests which pertain to the proper functioning, repair, and maintenance of slot machines and the servicing of slot customers. Although, as indicated above, the slot department employees enjoy the same benefits as other casino employees, are stationed on the casino floor along with the dealers and other employees, and are under the overall supervision of the director of all casino operations, it is of paramount significance

that their skills and the nature of their work are completely different from those of the numerically predominant dealers whose training, knowledge, and separate immediate supervision pertain only to the gaming tables. Although there have been some permanent transfers to slot attendant positions, the more important and controlling consideration is that there has been no temporary interchange of any kind since the opening of the casino. That the slot department employees have different interests from those of the dealers, who use a separate lounge, is further evident from the fact that the slot manager confines his employee meetings to the slot department, and the dealers discuss their problems with management through their own committee which represents them alone.

In view of their distinctive duties and skills, the absence of any temporary interchange with any other casino employees, and their separate immediate supervision by the slot department manager who hires, discharges, evaluates, and disciplines the employees therein, we conclude that a slot department unit is appropriate. Although, as contended by the Employer, a casinowide unit may also be appropriate, this does not preclude a finding that the departmental unit sought by the Petitioner is also appropriate.¹⁰ Accordingly, we find that the following employees constitute an appropriate departmental unit for collective-bargaining purposes within the meaning of Section 9(b) of the Act:

All slot attendants, slot mechanics, and the slot arcade manager¹¹ employed by the Employer at its Atlantic City, New Jersey, facility, excluding the slot department manager, shift managers, assistant shift managers, shift coordinator, chief slot mechanic, and all other casino employees and supervisors as defined in the Act.

[Direction of Election and *Excelsior* footnote omitted from publication.]

¹⁰ See *Chin Industries, Inc.*, 232 NLRB 176 (1977), which states that "it is well settled that more than one unit may be appropriate among the employees of a particular enterprise."

Cf. *105 Casino Corporation d/b/a Nevada Club*, 178 NLRB 81 (1969), wherein the Board found inappropriate a separate unit of slot attendants and slot mechanics and included them in a broader unit of casino employees with whom they shared the same immediate and intermediate supervision. That case is distinguishable from the instant situation as the slot department employees herein are under separate immediate supervision and meet only with their manager in contrast to the dealers who discuss their problems with management through their own committee; the slot mechanics herein receive special training at an approved school which is completely different from that of the dealers; and no other labor organization seeks in the instant case to represent all of the casino employees.

¹¹ As indicated above, the parties stipulated to the employee status of the slot arcade manager and his inclusion in the unit.

⁷ The pit clerks who provide chips to the customers at the tables are not required to have any special training.

⁸ The coverage for all casino employees except the dealers is equal to their annual salary. As the income of the latter fluctuates because of the uncertain amount of their tips, their coverage is fixed at \$20,000.

⁹ Slot department employees are given three breaks each day while dealers are entitled to a 20-minute break each hour.